

TRACS HK11901C

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA,
AND
THE KAYENTA TOWNSHIP COMMISSION,
a political subdivision of the
NAVAJO NATION

THIS AGREEMENT is entered into 9th September, 2002, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State"), and the KAYENTA TOWNSHIP COMMISSION, a political subdivision of the NAVAJO NATION, acting by and through its COUNCIL (the "Township").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Township is empowered by Navajo Nation Council, to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Township.

3. Incident to highway improvements either now constructed or contemplated in the future, to include roadway lighting on US-163 from MP 393.5 to MP 395.8 ("Roadway Lighting"), a new warranted 3-way traffic signal @ US 163 and N-18 and an existing traffic signal at the intersection of US-163 at US-160, the parties desire to define their respective responsibilities relating to design, construction, maintenance, funding, and furnishing electrical energy to operate the lighting and signals.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 25517
Filed with the Secretary of State
Date Filed: 09/26/02

Betty Gayles
Secretary of State

By: [Signature]

II. SCOPE OF WORK

1. The State will:

a. Provide to State standards design plans, specifications and such other documents and services required for construction bidding and construction of the signal Project. Incorporate Commission review comments.

b. Call for bids and upon approval of the State Transportation Board award one or more construction contracts for the signal Project. Administer same and make all payments to the contractor(s). Confer with the Township on any Project related contract modifications, and be responsible for its proportionate share of same. Be responsible for any contractor claims for extra compensation attributable to the State.

c. Upon completion, approve and accept the signal Project on behalf of the parties hereto, and provide maintenance to the signal.

d. Upon completion, invoice the Township for its 1/3 share of the total construction cost of the new signal portion of the Project, an amount estimated at \$45,000.00 for the Township's 1/3 participation.

2. The Township will:

a. Review the Project design documents and provide comments. Be responsible for any contractor claims for extra compensation attributable to the Township.

b. Be responsible for funding 1/3 share of the total construction cost of the new signal portion of the Project, an amount estimated at \$45,000.00, for its 1/3 participation.

c. Upon completion of the Project, and within 30 days after receipt of an invoice, pay the State for its 1/3 participation of the total construction cost of the Project, an amount estimated at \$45,000.00. Be responsible for its proportionate share of any signal Project related construction contract modifications.

d. Grant the State perpetual right of entry access outside the State rights-of-way as required for performing maintenance of pavement markings and signal loop detectors.

e. Upon completion of the Project provide in its annual budget, and item for funding for the electrical energy costs to operate the Roadway Lighting, both the existing and the new traffic signal associated with the Project, all at Township's expense.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project and reimbursements; provided however, that this agreement, except any provisions herein for maintenance and electrical energy, which shall be perpetual, may be cancelled at any time prior to the advertisement of a construction contract, and with 30 days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511 as regards conflicts of interest on behalf of State employees.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract, pertaining to 5-year record retention for audit purposes are applicable to this contract.

5. Applicable laws of the State, Federal and Tribal government shall govern the rights of the parties with respect to the performance of this agreement. The parties hereto shall select a process for the resolution of claims or disputes relating to this agreement, compliant with applicable laws and regulations of the State, Federal and Tribal government, and acceptable to the State and the Township. Such process shall include a provision for arbitration.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX: 602-712-7424

Kayenta Township
Town Manager
PO Box 1490
Kayenta, AZ 86033

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of their state to enter into this agreement and that the agreement is in proper form.

8. Nothing herein shall be construed as a waiver of the sovereign immunity of the Navajo Nation.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

KAYENTA TOWNSHIP

By 
GARY H. NELSON
Town Manager

STATE OF ARIZONA

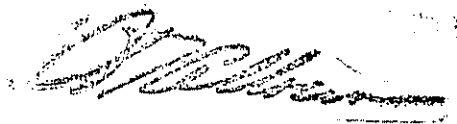
Department of Transportation

By 
MICHAEL P. MANTHEY, P.E.
State Traffic Engineer

RESOLUTION

BE IT RESOLVED on this 20th day of February, 2002, that I, the undersigned VICTOR M. MENDEZ, as Director of the ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the State of Arizona that the Department Of Transportation, acting by and through the INTERMODAL TRANSPORTATION DIVISION, to enter into an agreement with the KAYENTA TOWNSHIP COMMISSION, a political subdivision of the NAVAJO NATION for the purpose of defining responsibilities for the State to design and construct roadway lighting on US-163 from MP 393.5 to MP 395.8 ("Roadway Lighting"), a new warranted 3-way traffic signal @ US 163 and N-18 and an existing traffic signal at the intersection of US-163 at US-160, incident to the State's ongoing and future improvements on US 160 and US 163.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the State Traffic Engineer or higher, for approval and execution.



DAVID R. ALLOCCO, P.E., Ass't State Engineer
Engineering Technical Group
for VICTOR M. MENDEZ, Director

RESOLUTION OF THE KAYENTA TOWNSHIP COMMISSION

**Amending the Kayenta Township Commission Resolution No. KTCMY-26-02 that
Approved an Intergovernmental Agreement between the Kayenta Township Commission
and Arizona Department of Transportation for the Installation of a Traffic Signal in
Kayenta, AZ**

WHEREAS:

1. The Kayenta Township Commission (KTC), the duly elected governing body of the Kayenta Township, is authorized to oversee all planning and development activities within the site designated as the Township boundary, including but not limited to: conduct of meetings, approval of business leases, and entering into business, financial, and development agreements in furtherance of its responsibilities and duties; and
2. On May 4, 2002 the KTC approved and Intergovernmental Agreement between the Kayenta Township Commission and Arizona Department of Transportation (ADOT) for the installation of a traffic signal light at the intersection of Hwy 163 and N-18, that is near the new Post Office in Kayenta, Navajo Nation (AZ); and
3. Errors were discovered in said resolution that requires correction to (Whereas) Paragraph No. 4 and (Now Therefore Be It Resolved) Paragraph No. 1; and
4. Paragraph No. 4 is amended by increasing the \$15,000 amount identified as 1/3 share of the cost of construction by the Kayenta Township Commission to \$45,000 and likewise with Paragraph No. 1; and
5. All other things remain unchanged.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Kayenta Township Commission hereby amends Resolution No. KTCMY-26-02, dated May 4, 2002, that approved an Intergovernmental agreement between the Kayenta Township Commission and Arizona Department of Transportation for the installation of a traffic signal at the intersection of Hwy 163 and N-18, by increasing the \$15,000 amount to \$45,000 that is identified as 1/3 share of the cost of construction by the Kayenta Township Commission in (Whereas) Paragraph No. 4 and (Now Therefore Be It Resolved) Paragraph No. 1.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tax Commission at a duly called meeting at Kayenta, Arizona, at which a quorum was present and the same was passed by a vote of 2 in favor, 0 opposed, and 0 abstained this 30th day of June, 2002.

Motion: Commissioner Badonie

Second: Commissioner Bonnaha

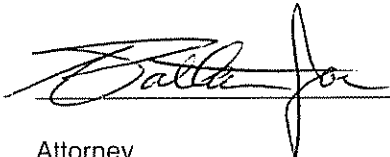
Kayenta Township Commission

Helen Bonnaha
Vice-Chairperson

APPROVAL OF THE KAYENTA TOWNSHIP ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the KAYENTA TOWNSHIP and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the Navajo Nation. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 30th day of August, 2002.



Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL
TRANSPORTATION SECTION

1275 WEST WASHINGTON STREET, PHOENIX, AZ. 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL

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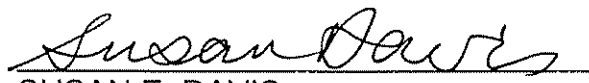
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR00-1455TRN, an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED September 16, 2002.

JANET NAPOLITANO
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/srs

Att.